

The 20th March, 1995

No. 14/13/-87-6I.ab./388. —In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award—of Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad in respect of the dispute between the workman and the management of M/s Clutch Auto Ltd., 12/4, Mathura Road, Faridabad *versus* Surinder Singh.

BEFORE SHRI N. L. PURTHI, PRESIDING OFFICER INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, FARIDABAD

Reference 373 of 87

IN THE MATTER OF INDUSTRIAL DISPUTE

between

SHRI SURINDER SINGH, C/O CITU, 2/7 GOPI COLONY, OLD FARIDABAD. .. *Workman*

and

M/S CLUTCH AUTO LTD., 12/4, MATHURA ROAD, FARIDABAD .. *Management.*

Present :

Shri S. K. Bakshi, authorised representative, for the workman.

Shri G. S. Chaudhery, authorised representative, for the management.

AWARD

Under the provisions of section 10 (1) (d) of Industrial Disputes Act, 1947, the Government of Haryana have,—*vide* Endorsement No. OV/FD/55—87/40804—809, dated the 13th October, 1987 referred the following dispute between the parties above named for adjudication:—

Whether the termination of services of Shri Surinder Singh is legal and justified. If not, to what relief he is entitled ?

2. The case of the workman is that he had been in the employment of the management with effect from 1st May, 1984 on monthly wages of Rs. 480. His work and conduct was always found satisfactory and he had never given a cause of any complaint. His allegation is that when he had reported for duty on 20th August, 1986, he was not allowed to enter the factory by the Security Staff and was told that his services were no longer required. He is alleged to have contacted the management and written a letter also on 10th September, 1986 but no need was paid to his request. So, taking his termination as illegal, the workman has claimed reinstatement with continuity of service and full back wages.

3. In the written statement filed by the management, stand taken is that the workman was in fact employed as a Trainee on stipend of Rs. 450 per month from 1st May, 1984 to 30th April, 1985. The workman had failed to learn the job and as such period of training was extended from time to time upto 30th June, 1986. Since no improvement was noticed in the work of the claimant, his services were dispensed with as per terms and conditions of contract/agreement letter. Stand has also been taken by the management that the workman had filed a demand notice dated 10th September, 1986 with the Labour-cum-Conciliation Officer and the same was dismissed due to non-appearance of the workman. He had raised another demand notice dated 15th December, 1986 not with the management but with the Labour-cum-Conciliation Officer. The State Government which had declined to refer the dispute by its endorsement dated 24th April, 1987 again referred the same matter for adjudication without giving an opportunity of hearing to the management. So, according to management, the reference is bad in law.

3. In the rejoinder, pleas taken in the claim statement have been reiterated while those in the written statement controverted.

4. On the pleadings of the parties following issues were laid down for adjudication:—

(1) As per reference ? OPP

(2) Whether reference is not legal and valid as alleged ? OPM

(3) Whether the claimant is gainfully employed ? OPM

5. The management have examined two witnesses namely N. S. Yadav (MW-1) and S. N. Aggarwal (MW-2). As against this workman has been examined as WW-1.

6. I have heard authorised representative for the parties and perused facts on record. My findings on each of the issues with reasons therefor are as under :—

Issue No. 1 :

7. N. S. Yadav examined as MW-1 stated that the workman was engaged as a Trainee and the photo copy of first letter of intent is Ex. M-1 bearing the signatures of the workman. The witness also stated that the letter was given by him to the workman. According to this letter, the duration of the training was from 1st May, 1984 to 30th April, 1985. Ex. M-2 is letter of intent in respect of training period from 1st May, 1985 to 30th April, 1986 and Ex. M-3 for the period from 1st May, 1986 to 31st August, 1986. In order to prove that the workman had put his signatures on Ex.-1 and M-2 and M-3, the management had got workers signatures thereon compared with his admitted signatures from S. N. Aggarwal the Examiner of Questioned Documents. The report of the expert proved by him in his examination as MW-2 is Ex. M-24. The conclusions drawn in the report are that the signatures of the workman in Ex. M-1 to Ex. M-3 tally with his admitted signatures. In his cross-examination as WW-1, the workman admitted that he was Trainee and also admitted that he had never made a complaint anywhere that he was being wrongly shown as Trainee in the letters of intent issued by the management from time to time. As such, in the face of the admission that the status of the workman had always remained as of Trainee, the management was well within its rights to dispense with his services when he had not been able to learn his job. As such, holding that the act of the management was legal and justified and the workman is not entitled to any relief. I decide this issue in favour of the management and against the workman.

Issue No 2 :

8. N. S. Yadav examined as MW-1 stated that the demand notice of the workman was once rejected and the State Government had, without issuing any notice to the management, made a reference for adjudication. The workman examined as WW-1 admitted that his case had already been rejected twice by the State Government. He also admitted that he had not sent any demand notice to the management and the one raised by him was with the Labour-cum-Conciliation Officer. The admission made by the workman clinches this issue. So, when the management had not been given an opportunity of hearing by the State Government before making a reference when the matter had already been rejected twice, the reference is rendered illegal and invalid. Accordingly, this issue is decided in favour of the management and against the workman.

Issue No. 3 :

9. The workman examined as WW-1 stated that he owns four 'Kilas' (Acres) of land and is earning his livelihood from his agricultural produce. This shows that he is engaged in his agricultural pursuits and for that matter he cannot be taken to be unemployed or not gainfully employed. This issue is thus decided in favour of the management and against the workman.

10. In view of my findings on issues No. 1, the reference is answered in the manner that the workman was a Trainee. He had not learnt the job and the action of the management to dispense with his service was legal and justified, and in result, he is not entitled to any relief. An award is passed accordingly.

N. L. PRUTHI,

The 23rd February, 1995.

Presiding Officer,
Industrial Tribunal-cum,
Labour Court-I, Faridabad.

Endorsement No. 455, dated the 1st March, 1995.

A copy with three spare copies, is forwarded to the Commissioner, and Secretary to Government of Haryana, Labour Department, Chandigarh.

N. L. PRUTHI,

Presiding Officer,
Industrial Tribunal-cum,
Labour Court-I, Faridabad.